IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 866 of 2002()

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CRA.190/1998 of SESSIONS COURT, MANJERI
CC.311/1998 of JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM

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REVN. PETITIONER: APPELLANT/ACCUSED

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ABDUL RAZAK P., S/O. KUNHALAN,
PATTIKKADAN HOUSE, PULLANKODE, MALAPPURAM DISTRICT

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE & COMPLAINANT

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1. THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

2. VIJAYARAJAN C., S/O.KANARAN,
PANNIKOODAN HOUSE, MUNDUPARAMBA, MALAPPURAM DIST.

BY ADV. SRI.K.M.SATHYANATHA MENON
PUBLIC PROSECUTOR SRI.K.M.FIROZ

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**K.P.BALACHANDRAN, J.**

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Crl.R.P.NO.866 OF 2002

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Dated this the 20th day of December 2006

**ORDER**

The accused convicted for offence under Section 138 of N.I. Act concurrently by the courts below is the petitioner. He was sentenced to undergo simple imprisonment for six months by the Magistrate but in appeal the Sessions Judge modified the sentence to one of simple imprisonment for three months and to pay a compensation of Rs.80,000/- to the complainant and in default to undergo simple imprisonment for a further term of three months. This revision is filed impugning the legality, propriety and correctness of the conviction and sentence so passed against him.

2. Learned counsel for the petitioner after advancing arguments on the merits of the case for sometime, probably being convinced that the submissions did not appeal to this court so as to interfere in the concurrent conviction and sentence passed against the petitioner for offence under Section 138 of N.I. Act, submitted that she does not want to have the Criminal Revision considered on merits and it is enough that the substantive term of imprisonment is modified and reduced and the petitioner is permitted to pay

compensation. I am of the view that the request made on behalf of the petitioner can be considered favourably.

3. In the result, I confirm the conviction of the petitioner for offence under Section 138 of N.I. Act but modify and reduce the sentence of imprisonment to imprisonment for one day till rising of court and direct the petitioner to pay an amount of Rs.90,000/- by way of compensation to the 2nd respondent/complainant under Section 357(3) Cr.P.C. and in default to undergo simple imprisonment for three months. The petitioner shall surrender before the Judicial First Class Magistrate, Malappuram positively within two months from today to serve the sentence and shall at the same time deposit the entire amount of compensation before the court positively on that day. In case of failure to make deposit of compensation on that day, the learned Magistrate shall enforce the sentence in default of payment of compensation forthwith.

This criminal revision is disposed of as above.

**K.P.BALACHANDRAN, JUDGE**

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Page numbers

**K.P.BALACHANDRAN, J.**

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**ORDER**

Dated 20th December 2006